



VILLAGE OF MIRAMIGUOA PARK, MISSOURI

YEAR ENDED AUGUST 31, 1999

**From The Office Of State Auditor
Claire McCaskill**

Report No. 2000-83
August 30, 2000
www.auditor.state.mo.us

AUDIT REPORT



Office Of The
State Auditor Of Missouri
Claire McCaskill

August 2000

www.auditor.state.mo.us

Some problems were discovered as a result of an audit conducted by our office in response to the request of petitioners from the Village of Miramiguo Park, Missouri.

The village bills each resident annually for the various village assessments. These assessments were originally started prior to the incorporation of the village, when it was a private subdivision. As many as seven different assessments may be included on the billing depending on whether the resident is a homeowner who lives in the village full-time, a homeowner who lives in the village part-time, a lot owner only, or a resident that does not have a paved roadway leading to his/her lot. The monies collected from these assessments are used to repay a 1995 road loan, make road and water system repairs and perform upkeep, pay for trash hauling and grass cutting, pay village operating expenses, and provide for a contingency.

The fees charged to residents for water, trash, and grass were established without a public vote, generate greater revenues than the annual expenditures incurred by the operations they were meant to fund and are not accounted for separately from other operating assessments. The village has no statutory authority to assess the road and surtax assessments.

In November 1995, prior to the incorporation of the village in 1997, the private subdivision of Miramiguo Park entered into a loan agreement for the paving of the roads. The subdivision borrowed \$38,232 at an interest rate of eight percent to pay for the service. Annual payments were made each November with the principal of the note originally due by December 1, 2000. In April 2000, the loan was extended to December 1, 2001. The subdivision/village has made \$25,127 in principal payments as of November 1999. The note does not contain any provisions for the village to cancel the agreement due to lack of appropriations or any other reasons. Without this type of option, the village appears to have inherited a long term debt arrangement.

This agreement appears to violate the intent of the Missouri Constitution on legal indebtedness absent a vote of the village residents.

The village's budgets were not properly prepared and formally approved as required by state law. Semi-annual financial statements were not published or posted prior to 2000, and the annual financial reports submitted to the State Auditor's office were not accurate. Some meetings of the board were not open to the public and board minutes are not signed by either the Village Clerk or Village Chairman.

(over)

YELLOW SHEET

The village does not have a formal bidding policy. Based on discussions with village officials, it appears bids are generally solicited for purchases of goods or services; however, documentation of these bids is not adequate.

Formal bidding procedures for major purchases provide a framework for economical management of village resources and help ensure the village receives fair value by contracting with the lowest and best bidders. Competitive bidding also helps ensure all parties are given an equal opportunity to participate in the village's business. Complete documentation should be maintained of all bids received and reasons noted why the bid was selected.

Supporting documentation was not maintained for all disbursements made by the village. Various payments for grass cutting, postage, room rental, and other miscellaneous repairs had no invoice or other documentation to support the payments. In addition, other invoices were not adequately detailed to support the work performed.

The Village Clerk also serves as the Treasurer and Collector for the village resulting in duties which are not adequately segregated.

VILLAGE OF MIRAMIGUOA PARK, MISSOURI

TABLE OF CONTENTS

	<u>Page</u>
STATE AUDITOR'S REPORT	1-3
HISTORY AND ORGANIZATION	4-7
MANAGEMENT ADVISORY REPORT.....	8-18
SUMMARY OF FINDINGS	9

<u>Number</u>	<u>Description</u>	
1.	Village Assessments	10
2.	Long Term Debt.....	11
3.	Village Ordinances.....	12
4.	Budgets, Financial Reports, Meetings, and Minutes	13
5.	Accounting Controls and Procedures.....	15
6.	Expenditures	16

STATE AUDITOR'S REPORT



CLAIRE C. McCASKILL
Missouri State Auditor

To the Honorable Chairman
and
Board of Trustees
Village of Miramiguoa Park
Sullivan, Missouri 63080

The State Auditor was petitioned under Section 29.230, RSMo, to audit the village of Miramiguoa Park, Missouri. Our audit of the village included, but was not limited to, the year ended August 31, 1999. The objectives of this audit were to:

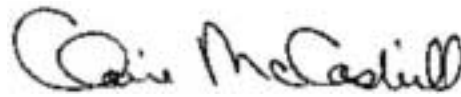
1. Perform procedures we deemed necessary to evaluate the petitioners' concerns.
2. Review compliance with certain constitutional provisions, statutes, ordinances, and attorney general's opinions as we deemed necessary or appropriate in the circumstances.
3. Review certain management practices which we believe could be improved.

Our audit was made in accordance with generally accepted government auditing standards and included such procedures as we considered necessary in the circumstances. We also reviewed board minutes, village policies and ordinances, and various village financial records.

Our audit was limited to the specific matter described above and was based on selective tests and procedures considered appropriate in the circumstances. Had we performed additional procedures, other information might have come to our attention which would have been included in this report.

The accompanying History and Organization is presented for informational purposes. This information was obtained from the village and was not subjected to the auditing procedures applied in the audit of the village.

The accompanying Management Advisory Report presents our findings and recommendations arising from our audit of the village of Miramiguo Park, Missouri.

A handwritten signature in black ink, appearing to read "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" and last name "McCaskill" clearly distinguishable.

Claire McCaskill
State Auditor

May 12, 2000 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits:	Karen Laves, CPA
Audit Manager:	Alice M. Fast, CPA, CIA
In-Charge Auditor:	Robert L. McArthur II

HISTORY AND ORGANIZATION

VILLAGE OF MIRAMIGUOA PARK, MISSOURI HISTORY AND ORGANIZATION

The village of Miramiguo Park was incorporated in 1997 and is located in Franklin County. The village currently consists of 62 homes, 48 are occupied by full-time residents and 14 are occupied by part-time residents. There are 67 other lots that have been purchased but not developed.

The village government consists of a five-member board of trustees. The board is elected for two-year terms. The chairman is appointed by the board from the members. The board members and chairman serve without compensation. The members of the village board of trustees and the village attorney at August 31, 1999, were:

<u>Elected Officials</u>	<u>Term Expires</u>
C. Roy Whinery, Chairman	April 2001
Robert L. Breuer, Trustee	April 2001
Ethel Voelker, Trustee	April 2000(1)
Leonard G. Sagehorn, Trustee	April 2000(1)
Thomas Armistead, Trustee	April 2000(2)

Appointed Official
Robert L. Davis, Attorney

- (1) Re-elected in April 2000. New term expires April 2002.
- (2) John D. Misemer was appointed to replace Mr. Armistead in March 2000. Mr. Misemer was re-elected in April 2000. His new term will expire April 2002.

Robert Breuer was appointed and served as Village Clerk and Treasurer for the year ended August 31, 1999. He received no compensation during the year. In November 1999, Ethel Voelker was appointed to replace Robert Breuer.

All trustees are insured against "public officials errors or omissions" in the amount of \$500,000 for each occurrence, subject to a \$500 deductible.

The village does not have a property tax levy. Assessed valuation information for 1999 is as follows:

ASSESSED VALUATION

Real estate	\$ 494,291
Personal property	<u>103,575</u>
Total	<u><u>\$ 597,866</u></u>

Instead, the village bills each home owner and/or lot owner various assessments as noted below:

<u>Assessment (home owner)</u>	<u>Purpose</u>	<u>Amount Charged Annually</u>
Special Blacktop	Repayment of road loan	\$40
Roads	Repair and upkeep	\$0.40 per foot of improved road frontage (50' max) \$0.20 per foot of unimproved road frontage
Water and Trash	Water improvements and upkeep and trash hauling	\$120 each (\$75 each for part-time resident)
Surtax	Operating expenses and/or contingency	\$10
<u>Assessment (vacant lot owner)</u>	<u>Purpose</u>	<u>Amount Charged</u>
Special Blacktop *	Repayment of road loan	\$20
Roads	Repair and upkeep	\$0.20 per foot of road frontage
Surtax	Operating expenses and/or contingency	\$10

* A special blacktop assessment is not charged when all roads surrounding the lot are gravel.

In addition, lot owners can have their grass mowed up to three times a year for an additional charge based on the size of their lot and the number of times it is mowed.

A summary of the financial activity of the village of Miramigoua Park for the year ended August 31, 1999, is presented below:

RECEIPTS

Assessments	\$ 24,426
Interest	786
Total Receipts	<u>25,212</u>

DISBURSEMENTS

Repayment of road loan	8,500
Road repairs and upkeep	4,700
Trash/tire disposal	3,460
Grass cutting	1,525
Utilities	1,346
Insurance	1,192
Water system repairs and testing	743
Office expense	497
Equipment (trimmer)	429
Accounting fees	392
Snow removal	372
Security	340
Early withdrawal penalty (certificate of deposit)	315
Village party	259
Supplies	225
Advertising and other election expenses	131
Meeting hall rental	85
Training	69
Flowers for resident	41
Recording	36
Total Disbursements	<u>24,657</u>

RECEIPTS OVER (UNDER)

DISBURSEMENTS	555
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CASH AND CASH EQUIVALENTS,

SEPTEMBER 1, 1998	<u>24,231</u>
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CASH AND CASH EQUIVALENTS,

AUGUST 31, 1999	<u><u>\$ 24,786</u></u>
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MANAGEMENT ADVISORY REPORT

VILLAGE OF MIRAMIGUOA PARK, MISSOURI
SUMMARY OF FINDINGS

1. Village Assessments (pages 10-11)

The fees charged to residents for water, trash, and grass were established without a public vote, generate greater revenues than the annual expenditures incurred by the operations they were meant to fund, and are not accounted for separately from other operating assessments. The village has no statutory authority to assess the road and surtax assessments.

2. Long Term Debt (pages 11-12)

Upon incorporation, the village appears to have inherited a long term debt arrangement which is prohibited by the Missouri Constitution.

3. Village Ordinances (page 12)

Village ordinances do not include various policies and are not always kept current.

4. Budgets, Financial Reports, Meetings, and Minutes (pages 13-15)

The village's budgets were not properly prepared and formally approved as required by state law. Semi-annual financial statements were not published or posted prior to 2000, and the annual financial reports submitted to the State Auditor's office were not accurate. Some meetings of the board were not open to the public and board minutes are not signed by either the Village Clerk or Village Chairman.

5. Accounting Controls and Procedures (page 15)

The Village Clerk also serves as the Treasurer and Collector for the village resulting in duties which are not adequately segregated.

6. Expenditures (pages 16-17)

The village does not have a formal bidding policy. Adequate documentation was not always maintained to fully support some expenditures. The village does not have a formal written agreement with the Village Attorney. Board minutes do not identify the disbursements approved by the board at its regular meetings.

VILLAGE OF MIRAMIGUOA PARK, MISSOURI
MANAGEMENT ADVISORY

1.	Village Assessments
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The village bills each resident annually for the various village assessments. These assessments were originally started prior to the incorporation of the village, when it was a private subdivision. As many as seven different assessments may be included on the billing depending on whether the resident is a homeowner who lives in the village fulltime, a homeowner who lives in the village part-time, a lot owner only, or a resident that does not have a paved roadway leading to his/her lot. The monies collected from these assessments are used to repay a 1995 road loan, make road and water system repairs and perform upkeep, pay for trash hauling and grass cutting, pay village operating expenses, and provide for a contingency. We noted the following concerns during our review of the various assessments:

- A. Because the village has not adopted ordinances clearly defining each assessment, see MAR No. 3, it is unclear as to whether the water, trash, and grass assessments are a tax or a user fee. In addition, revenues generated by the water, trash, and grass assessments far exceed the village's annual expenses related to the assessments and are not accounted for separately from assessments for general operations.

The Missouri Supreme Court, in its decision in *Beatty v. Metropolitan St. Louis Sewer District*, 867 S.W. 2d 217 (Mo. banc 1993) applied a five-pronged analysis to determine whether a governmental charge was a tax, thus requiring a public vote, or user fee which could be revised without a vote. This court case also indicated that if the analysis did not clearly indicate the charge is a user fee, the issue should be put to a vote.

Because this matter has been a concern of some citizens, the village should request that its attorney review these fees to determine whether they are or can be structured as user fees, or whether they should be put to a public vote. If this matter is not resolved by clear legal authority or an election, the village might need to consider ending these municipal services and require the village's residents to contract privately.

The village should separately account for these different activities. A General Fund should be used to account for the general activities of the village and other operations should be accounted for separately to ensure that charges do not exceed the costs of providing the services.

- B. The village has no statutory authority to assess the road and surtax assessments. Expenses these revenues are to cover would normally be supported by a village property tax. Section 80.460, RSMo, authorizes the village to levy a property tax

for general municipal purposes not to exceed fifty cents on one hundred dollars of assessed valuation. Upon voter approval, an additional levy up to thirty cents may be assessed for a period not to exceed four years at any one time. In addition, the village is not receiving state road monies as authorized in Article IV, Section 30, of the Missouri Constitution. The village also has not passed an ordinance to collect franchise taxes from various utilities operating in the city. Such additional revenues could help the village provide services to its residents.

WE RECOMMEND the Board of Trustees request the Village Attorney to review the present assessments and determine whether they are or can be structured as a user fee, or if they should be put to public vote. Also, the board should ensure all assessments comply with state law, do not generate excessive revenues, and should account for operations other than general activities separately. The Board should also discontinue the assessment of the road and surtax assessments and consider levying village property taxes as allowed by Section 80.460, RSMo. The Board should investigate obtaining state road monies and utility franchise taxes.

AUDITEE'S RESPONSE

The village board has already requested the village attorney to review the assessments. We will consider getting voter approval and passing ordinances to establish the water, trash, and grass cutting assessments as user fees and maintain separate accountings for these monies. We have appointed a citizens committee to review the water rates. We are investigating other possible sources of revenues and taxes to finance the operations of the village. We expect to implement the recommendations during the village's fiscal year ending August 31, 2001.

2. Long Term Debt

In November 1995, prior to the incorporation of the village in 1997, the private subdivision of Miramiguo Park entered into a loan agreement for the paving of the roads. The subdivision borrowed \$38,232 at an interest rate of eight percent to pay for the service. Annual payments were made each November with the principal of the note originally due by December 1, 2000. In April 2000, the loan was extended to December 1, 2001. The subdivision/village has made \$25,127 in principal payments as of November 1999. The note does not contain any provisions for the village to cancel the agreement due to lack of appropriations or any other reasons. Without this type of option, the village appears to have inherited a long term debt arrangement.

This agreement appears to violate the intent of the Missouri Constitution on legal indebtedness absent a vote of the village residents. Article VI, Section 26(a) of the Missouri Constitution states no village shall become indebted in an amount exceeding in any year the income and revenue provided for such a year. Article VI, Section 26(c) of the Missouri Constitution allows villages to incur debt by bond issue, but only after approval of two-thirds of the qualified electors voting thereon.

Prior to incorporation, the board should have addressed this issue and made arrangements to pay off or restructure the note.

WE RECOMMEND the Board of Trustees comply with the Missouri Constitution and obtain voter approval before incurring any debt or ensure debt agreements have annual renewal clauses.

AUDITEE'S RESPONSE

We were not aware that we had violated the intent of the Missouri Constitution regarding our loan for road improvements. We have arrangements for a loan to replace our water storage tank which does have the annual renewal clause. We will talk to our bank in the next month and try to find a workable solution regarding the loan for road improvements.

3. Village Ordinances

The village has not adopted ordinances to address the billing, collection, or assessing of delinquent penalties for the various village assessments noted in MAR No.1 or the \$10 fee that is charged by the village for a copy of the village ordinance book. In addition, Village Ordinance, Section 110.040 appears to be outdated. This ordinance provides for monthly meetings of the Board of Trustees on the third Tuesday of every month; however, it appears the Board of Trustees is currently meeting every other month.

Since the ordinances represent the legislation passed by the Board of Trustees to govern the village and its residents, it is important that the village's ordinances be maintained in a complete, well-organized, and up-to-date manner. An index of all ordinances passed and repealed by the city could help keep track of additions and changes made to the village ordinances.

WE RECOMMEND the Board of Trustees update the village's ordinances and ensure a complete set of ordinances is maintained. In addition, the board should pass ordinances to address the charges for the various assessments and for the ordinance book.

AUDITEE'S RESPONSE

All ordinances are currently being reviewed. We plan to comply with this recommendation within the next two months.

4.**Budgets, Financial Reports, Meetings, and Minutes**

A. Our review of the village's budgets noted the following concerns:

- 1) The village did not formally approve the budgets for the years ending August 31, 2000, 1999, and 1998, respectively. There was no indication in the minutes that the budgets prepared by the Village Treasurer were accepted or approved by the Board of Trustees. Section 67.080, RSMo, provides that no disbursement of public monies shall be made unless it is authorized in the budget.
- 2) The village's budgets do not include actual receipts and disbursements for the two previous years. In addition, the budgets do not include actual and estimated cash and resources available at the beginning and end of the year or a budget message.

Section 67.010, RSMo, sets specific guidelines for the format, of the annual operating budget. A complete budget for each fund should be prepared, and include the beginning available resources and reasonable estimates of the ending available resources. The budget should also include a budget message and comparisons of actual receipts and disbursements for the two preceding fiscal years.

- 3) Actual disbursements exceeded budgeted disbursements in 1999 by \$2,292. Section 67.040, RSMo, indicates a political subdivision shall not increase the total amount authorized for disbursement from any fund, unless the governing body adopts a resolution documenting the reasons making the increase necessary and approves or adopts a resolution or ordinance to authorize the disbursements.

A complete and well-planned budget, in addition to meeting statutory requirements, can serve as a useful management tool by establishing specific cost and revenue expectations for each area of the village operations and provide a means to effectively monitor actual costs and revenues. It will also assist in informing the public about the village's operations and current finances.

B. Semiannual financial statements were not published or posted in 1999, 1998, or 1997, as required by law. A semiannual financial statement was published for the period ending February 16, 2000. Section 80.210, RSMo, provides that the board of trustees is to prepare a correct statement of all monies received and expended on behalf of the village for the preceding six months and publish the financial statement in a local newspaper or post the statement in six public places within the village.

- C. The annual financial reports submitted by the village to the State Auditor's office as required by Section 105.145, RSMo, do not accurately reflect the balances and financial activity of the village. Receipts and disbursements listed by type were not complete and the cash balance noted for the village's checking account did not agree to the Village Treasurer's records. In addition, the 1999 report was not prepared based on the village's fiscal year as it was submitted for the twelve month period ending June 30, 1999.

The board should ensure the annual financial reports required pursuant to Section 105.145, RSMo, accurately reflect the financial activity and balances of the village and are prepared based on the village's fiscal year ending August 31.

- D. During the year ended August 31, 1999, the board had regular monthly meetings. In addition, when the board deemed it necessary a "special" meeting would be held to discuss additional village business. The regular monthly meetings were public and all village residents were properly informed; however, the "special" meetings were for board members only. All board meetings should be open to the public unless specifically closed as allowed by statute. In addition, Section 610.020, RSMo, requires notices (including tentative agendas) to be posted in a prominent place which is easily accessible to the public, to be given at least twenty-four hours in advance, or if not feasible, reasons are to be documented in the board minutes.
- E. Board minutes are not signed by either the Village Clerk or the Chairman. The board minutes should be signed by the Village Clerk and Chairman upon approval to provide an independent attestation that the minutes are a correct record of the matters discussed and actions taken during the board meetings.

WE RECOMMEND the Board of Trustees:

- A. Prepare complete and accurate annual budget documents that contain all information required by state law and/or necessary to provide a complete financial plan for the village. Any increases in disbursements should be approved by ordinance.
- B. Continue to ensure semiannual financial statements are published or posted in accordance with state law.
- C. Ensure the annual financial reports prepared and submitted to the State Auditor's office pursuant to Section 105.145, RSMo, accurately reflect the financial activity and balances of the village and are prepared based on the village's fiscal year.
- D. Ensure all board meetings are open to the public, unless closed as allowed by statute, and ensure notices are posted in accordance with state law.
- E. Ensure all board minutes are properly signed, to attest to the accuracy.

AUDITEE'S RESPONSE

- A. *A complete budget will be prepared for the year starting September 1, 2000.*
- B. *We will continue to post semiannual financial statements.*
- C. *We will file an annual report with the State Auditor's Office for the year ending August 31, 2000.*
- D. *We have already implemented this recommendation.*
- E. *We will ensure minutes are signed beginning at the next board meeting.*

5. Accounting Controls and Procedures
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The Board of Trustees has not appointed separate individuals to serve as Village Collector or Village Treasurer. Presently, the Village Clerk also serves as both the Village Collector and the Village Treasurer. She collects receipts, maintains the village's financial records, makes bank deposits, co-signs checks, reconciles the bank account, and handles billings.

Attorney General's Opinion No. 24, 1955 to Dodds, concluded that in a fourth-class city the holding of the positions of City Clerk, City Treasurer, and City Collector, or any two of these three offices, by the same person at the same time would be incompatible. The statutes pertaining to villages are similar to those cited in this opinion, therefore, the opinion's conclusion appears applicable to villages also.

Holding all three of these offices does not allow the segregation of duties necessary for a proper evaluation and review of financial transactions. The current procedures jeopardize the system of independent checks and balances intended by state law.

WE RECOMMEND the Board of Trustees consider appointing separate individuals to the positions of Village Clerk, Village Collector, and Village Treasurer. If this is not possible, at a minimum, procedures for an adequate independent review of the record keeping functions should be established.

AUDITEE'S RESPONSE

We will begin performing monthly independent reviews of the village clerk's records this month.

6.**Expenditures**

- A. The village does not have a formal bidding policy. Based on discussions with village officials, it appears bids are generally solicited for purchases of goods or services; however, documentation of these bids is not adequate. The following expenditures were incurred from September 1, 1998, to March 15, 2000, for which bid documentation was not adequate:

<u>Item</u>	<u>Cost</u>
Trash hauling	\$5,282
Road repair	4,700
Insurance	1,192
Grass cutting	1,050

Formal bidding procedures for major purchases provide a framework for economical management of village resources and help ensure the village receives fair value by contracting with the lowest and best bidders. Competitive bidding also helps ensure all parties are given an equal opportunity to participate in the village's business. Complete documentation should be maintained of all bids received and reasons noted why the bid was selected.

Bids can be handled by telephone quotation, by written quotation, or advertised sealed bid. Various approaches are appropriate, based on dollar amount and type of purchase. Whichever approach is used, complete documentation should be maintained of all bids received and reasons noted why the bid was selected.

- B. Supporting documentation was not maintained for all disbursements made by the village. Various payments for grass cutting, postage, room rental, and other miscellaneous repairs had no invoice or other documentation to support the payments. In addition, other invoices were not adequately detailed to support the work performed.

All disbursements should be supported by paid receipts and/or complete vendor-provided invoices to ensure the obligation was actually incurred and the disbursement represents an appropriate use of public funds. The village should require detailed invoices for all services which include the number of hours worked by day, the work performed, and the hourly rate charged.

- C. The village has not entered into a written contract with their attorney. Currently, the attorney is paid 15 percent of all delinquent assessments he collects. In addition, in October 1999 he was paid a \$500 retainer and bills \$135 per hour for other work performed for the village.

Section 432.070, RSMo, requires contracts of political subdivisions be in writing. The village should enter into written contracts for services rendered or obtained.

A written contract, signed by the parties involved, should specify the services to be rendered and the manner and amount of compensation to be paid. Written contracts are necessary to ensure all parties are aware of their duties and responsibilities and to provide protection to both parties.

- D. The board of trustees does not document its approval of bills. According to village officials, the board has given verbal approval to the Village Clerk to pay routine bills such as utility and trash hauling bills. The board has not documented its standing approval of these routine bills. The board also has no documentation of approving other non-routine bills including grass cutting and road repair. The board should include a list of approved bills in the board's minutes. By signing the minutes, the board would also document its approval of the list of bills for payment.

WE RECOMMEND the Board of Trustees:

- A. Establish a formal bidding policy regarding the procurement of goods and services. Such a policy should require that competitive bids are solicited through advertising for any purchases over an established amount and that bids be solicited for any purchases over a lesser amount. In addition, documentation of the bidding process should be maintained in all cases.
- B. Ensure all disbursements are supported by paid receipts and/or vendor-provided invoices which contain an adequate description of the goods or services received.
- C. Ensure formal written contracts are entered into for any services obtained by the village.
- D. Document its review and approval of bills by signing, or designating a board member to sign, the official copy of the minutes which includes the list of bills maintained by the Village Clerk.

AUDITEE'S RESPONSE

- A. *We will establish a bid policy within the next three months.*
- B. *We have already implemented this recommendation.*
- C. *We will obtain written contracts for all services starting now.*
- D. *We will begin documenting this review at the next board meeting.*

This report is intended for the information of the management of the village of Miramiguoa Park and other applicable government officials. However, this report is a matter of public record and its distribution is not limited.